



OVERVIEW DAF 2

Section 1: How Do You Own a Found Item?

The Basic Rule (Mishnah):

Two people (let's call them Reuven and Shimon) are both holding a piece of clothing. Both say "I found it" and "It's mine!"

What happens:

- Each person swears an oath that they own at least half
- Then they split it in half

If they claim different amounts:

- Reuven says: "It's ALL mine!"
- Shimon says: "HALF is mine!"
- Result: Reuven swears he owns at least 3/4, Shimon swears he owns at least 1/4, and each gets what he swore to

Same rule for animals: If two people are riding an animal or one is riding and one is leading it, and both claim it's theirs, they split it after swearing.

Exception: If they both admit they co-own it, OR if there are witnesses proving they both own it, they split it WITHOUT swearing.

The Discussion (Gemara):

Question: Why does the rule say BOTH "I found it" AND "It's mine"? Isn't that repeating the same thing?

First Answer: They're really saying one thing: "I found it, and therefore it's mine."

Follow-up Question: Then why not just say "I found it"? We'd understand they're claiming ownership!

Answer: Because "I found it" COULD mean "I just SAW it first." The rule needs to make clear that just SEEING

something doesn't make it yours - you have to actually PICK IT UP.

Challenge: Wait, doesn't "finding" in the Torah already mean you actually picked it up, not just saw it?

Response: Yes, in the Torah "finding" means picking up. But in everyday speech, people say "I found it" when they just spot something. The rule clarifies that ownership requires actually taking possession, not just seeing it first.

Another Question: Why not just say "It's mine" then?

Answer: The rule teacher wanted to emphasize an important lesson: you DON'T acquire ownership by just looking at something. That's why he mentions BOTH "I found it" AND "It's mine" - to show that mere finding (seeing) isn't enough.

Section 2: When They Both Claim They Bought It

Objection to the First Answer: Actually, the rule DOES treat these as two separate claims because it says "Reuven says... and Shimon says..." twice.

Second Answer (Rav Papa): The rule is teaching TWO different situations:

1. **"I found it"** = They're arguing about a found object
2. **"It's mine"** = They're arguing about who bought something

Why teach both situations?

Reason 1: If we only learned about found objects, we might think the oath is only needed there because:

- A person might think it's okay to grab and claim a found item
- They could justify it by thinking "Well, the other person didn't work for it, so I'll take half"

Reason 2: If we only learned about purchased items, we might think the oath is only needed there because:

- A person might think "We both paid, I need it more, so I'll take it"
- They figure the other person can get their money back and buy another one

Wait - if it's about a purchase, why not just check who actually paid?

Answer: The situation is: The seller got money from BOTH people! He willingly accepted money from one person, but the other person forced money into his hand. The problem is, the seller doesn't remember which payment was willing and which was forced.

Section 3: Which Rabbi's Opinion Is This?

Background: There's a different case about workers who claim they weren't paid, and their boss claims he gave money to someone else to pay them. That person says he paid, but the workers say he didn't.

Question: Does our rule follow Ben Nanas's opinion?

Ben Nanas says in that worker case: DON'T make both parties swear because one of them is definitely lying. But in our rule, both DO swear even though one is lying!

Answer: Our rule CAN match Ben Nanas because:

- In the worker case, BOTH oaths can't be true (either he paid or he didn't)
- In our garment case, BOTH oaths COULD be true! If they grabbed it at exactly the same time, they each really do own half!

Question: Does our rule follow Sumchus's opinion?

Sumchus says: When money is in doubt, split it WITHOUT an oath. But our rule requires an oath!

Problem: Our rule doesn't match the other rabbis either! They say you can't take money from someone without proof. Here both people are taking from each other without proof!

Answer: It CAN match the other rabbis because:

- They only require proof when ONE person is holding the item alone
- Here, BOTH are holding it, so they swear and split it
- Sumchus would say: if one person holding it means they split without swearing, then when BOTH are holding it, they definitely split without swearing!

Response: Our rule CAN match Sumchus too! Here's the difference:

- Sumchus says no oath when both parties are UNSURE
- But here, both parties are making DEFINITE claims ("It's definitely mine!"), so they need to swear

Challenge: But Rabah says Sumchus's rule applies even when both make definite claims. How can we match Sumchus then?

Answer: Sumchus only says "no oath" when there's "Drara of money." Here, there's no Drara.

What's "Drara"? (Three different explanations):

- **Rashi:** Drara = actual money loss. Not getting a found item isn't considered a loss.
- **Tosfos:** Drara = when the court already had doubts before hearing their claims. Here, the doubt only exists because of what they're claiming.
- **Ramban:** Drara = a claim based on undisputed prior ownership.

Bottom Line: The rule that two people holding the same item must swear and split it can fit with different rabbis' opinions depending on how we understand the situation and what "Drara" means.